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PTO/SB/21 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	08/999,766
	Filing Date	July 23, 1997
	First Named Inventor	Scott A. MOSKOWITZ
	Art Unit	2132
	Examiner Name	MEISHLAN, D.
Total Number of Pages in This Submission	Attorney Docket Number	80410.0009

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	Remarks Petition under 37 CFR 1.183	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name			
Signature			
Printed name	Scott A. MOSKOWITZ		
Date	June 6, 2007	Reg. No.	

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	Scott A. MOSKOWITZ	Date	June 6, 2007

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (06-07)

Approved for use through 06/30/2007. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL

For FY 2007

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 400.00

Complete if Known

Application Number	08/999,766
Filing Date	July 23, 1997
First Named Inventor	Scott A. MOSKOWITZ
Examiner Name	MEISLAHN, D.
Art Unit	2132
Attorney Docket No.	80410.0009

METHOD OF PAYMENT (check all that apply)☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☐ Deposit Account Deposit Account Number: _____ Deposit Account Name: _____

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	<u>Small Entity</u> Fee (\$)	Fee (\$)	<u>Small Entity</u> Fee (\$)	Fee (\$)	<u>Small Entity</u> Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	<u>Small Entity</u> Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
Total Claims	Extra Claims	Fee (\$)
- 20 or HP = _____ x _____ = _____		
HP = highest number of total claims paid for, if greater than 20.		
Indep. Claims	Extra Claims	Fee (\$)
- 3 or HP = _____ x _____ = _____		
HP = highest number of independent claims paid for, if greater than 3.		

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____				

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)	Fees Paid (\$)
Other (e.g., late filing surcharge): <u>Petition under 37 CFR 1.183</u>	\$400.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent)	Telephone 305 956 9041
Name (Print/Type)	Scott A. MOSKOWITZ		Date June 6, 2007

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Scott A. MOSKOWITZ et al.

Appl. No.: 08/999,766

Filed: July 23, 1997

Art Unit: 2132

Examiner: MEISHLAN, D.

MAIL STOP : Appeal Brief - Patents

Honorable Commissioner for Patents

United States Patent and Trademark Office

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

**Petition to the Director to Suspend the Separate Paper
Requirement Under CFR § 41.47(b)**

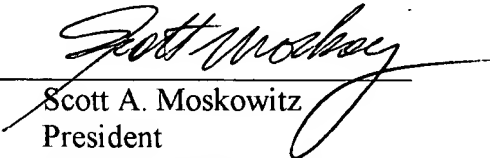
I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

1. I am Scott A. Moskowitz, President of Wistaria Trading, Inc., and a co-inventor of the above captioned patent application.
2. The patent application is assigned to Wistaria Trading, Inc. I am authorized to act on behalf of Wistaria Trading, Inc.
3. I received the "Notification of Non-Compliance Regarding Oral Hearing Request" on or about May 29, 2007 from my counsel at Wiley Rein LLP.

4. After discussing the "Notification" with Mr. Floyd Chapman, of Wiley Rein LLP, I responded to the "Notification" by filing: (1) "Revocation of Power of Attorney"; (2) "Request for Oral Hearing" (SB 32); (3) "Statement under 37 CFR 3.73(b)"; and, (4) a copy of the "Notice of Recordation of Assignment" on June 1, 2007 so that I can "establish that an extraordinary situation exists and that justice requires the separate paper requirement of 37 CFR § 41.47(b) be suspended or waived".
5. The originally filed "Brief on Appeal" was filed in a timely and proper manner on July 10, 2003. As the originally filed "Fee Transmittal Form" clearly indicates payment for the "Request for oral hearing", it is my understanding that the PTO charged the deposit account and that such payment represents consideration for an oral hearing as of the date of the payment.
6. The PTO rules set a limit on time for filing the separate paper request, and if my counsel had been previously notified of the requirement, I would have been in a position to still meet the rules. This Notice of a separate paper requirement, however, only issued on May 23, 2007, thus, denying me any opportunity to promptly respond to any notice of non-compliance.
7. However, the originally filed "Brief on Appeal" included an unnumbered, and "separate paper", stating: "Appellant hereby requests an oral hearing before the Board of Patent Appeals and Interferences. The Commissioner is hereby authorized to charge \$140.00 (the required filing fee for requesting an oral hearing for a small entity) to the deposit account no. 50-1129 of Wiley Rein & Fielding, LLP." This separate paper followed the "Brief on Appeal" coversheet and preceded the papers including the items required under 37 CFR § 41.47. It is my understanding this originally filed request constitutes a "separate paper".
8. It is my position that the lengthy prosecution of this application merits an oral hearing by the Appellant to assist with reasonable examination of the application on the merits.
9. As a pro se inventor, it is my position that the oral hearing represents a fundamental opportunity for inventors and examiners to work through issues of substance, an important aspect of the patent prosecution process. Further, there is no prejudice to the Office in granting this request but there may be potential prejudice in denying me the opportunity to have an oral hearing.

Respectfully submitted,

Date: June 6, 2007

By: 

Scott A. Moskowitz
President
Wistaria Trading, Inc.